

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JEREMY JOSEPH DURRENBERGER,	§	
	§	
Plaintiff	§	
v.	§	CIVIL ACTION NO. 4:09-CV-00786
	§	
	§	
TEXAS DEPARTMENT OF	§	
CRIMINAL JUSTICE,	§	
	§	
Defendant	§	

**PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO FILE AN
AMENDED COMPLAINT**

Plaintiff requests that this Court allow it to file an amended complaint.

FACTS

Jeremy Durrenberger is an individual with a disability that causes hearing impairment. On February 22, 2009, and again on March 29, 2009, Mr. Durrenberger went to Texas Department of Criminal Justice's ("TDCJ") Alfred Hughes Unit in order to visit with his friend, who is an inmate at the facility. On both occasions, Mr. Durrenberger requested an accommodation for his hearing disability so that he could hear his friend during the visit, and TDCJ refused to accommodate him. Plaintiff filed his complaint *pro se* on March 9, 2009. Since that time, Defendant has only filed an answer.

ARGUMENT

In the original complaint, which Plaintiff filed *pro se*, Plaintiff named TDCJ, Brad Livingston, Nathaniel Quartermann, and Dawn Grounds as defendants. Plaintiff brought his claims under the Americans with Disabilities Act ("ADA"). Plaintiff now seeks to amend his complaint to reflect TDCJ as sole defendant, and to bring his claims under Title II of the ADA, 42 U.S.C. §12181, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"), and Chapter 121 of the Texas Human Resources Code, Tex. Hum. Res. Code Ann.

§121.001, et seq. ("Chapter 121"). Plaintiff also seeks to amend his complaint to add claims for injunctive relief, declaratory relief, damages, and attorneys' fees and costs.

None of Plaintiffs' proposed changes would unfairly prejudice Defendant. The Amended Complaint is attached as Exhibit A.

This motion is made in good faith and is not intended to cause delay in this action. Nor does this motion intend to be repetitive or engage in other dilatory tactics designed to thwart these proceedings.

Therefore, Plaintiff respectfully requests that this court allow it to amend its complaint pursuant to Federal Rule of Civil Procedure No. 15(a).

Dated: June 3, 2009.

Respectfully submitted,

Peter (Jody) Barton
State Bar No. 24036196
Lauren Izzo
Application for Admission pending
State Bar No. 24065482
Scott Medlock
State Bar No. 24044783
Wayne Krause
State Bar No. 24032644
James C. Harrington
State Bar No. 09048500

TEXAS CIVIL RIGHTS PROJECT
1405 Montopolis Drive
Austin, Texas 78741-3438
(512) 474-5073 [phone]
(512) 474-0726 [fax]

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on May 14, 2009, a true copy of this document was sent to counsel for Defendant, Susan Werner, P.O. Box 12548, Austin, TX 78711-2548, (512) 495-9139 through the Court's electronic filing system.

/s/ Lauren Izzo
Lauren Izzo

CERTIFICATE OF CONFERENCE

I certify that I conferred with counsel for Defendant, Susan Werner by telephone, and Defendant is unopposed to this motion.

/s/ Lauren Izzo
Lauren Izzo